## REMARKS

Appellants respectfully disagree with all of the Examiner's arguments and contentions advanced in the Examiner's Answer, for at least those reasons originally set forth in Appellants' Brief on Appeal. In this Reply Brief, Appellants highlight for the Honorable Board two specific items from the Examiner's Answer which Appellants feel are most errant. Appellants specifically traverse the following statements and arguments made by the Examiner, and offer the following rebuttal arguments in support of said traversal:

*Examiner's Statement:*

> "[I]t is noted that the specific conditions set forth in the present specification are defined as the preferred conditions and not "the" mild conditions of the claimed invention. In essence, applicant's [*sic*] claimed mild condition is not limited by said disclosure in the present specification. The examiner notes that the only requirement is that said "mild" conditions be established through the reaction temperature or reaction time and, thus, is inclusive of any reaction temperature and/or time that would permit said transesterification process to run." (*See*, the Examiner's Answer Paper No. 05182004, p. 7, ¶ 11).

*Rebuttal:*

Appellants respectfully traverse the Examiner's contentions and arguments set forth in the statement repeated above. Specifically, Appellants would like to draw the Honorable Board's attention to paragraph seven of the Specification, which bridges pages 2 and 3 thereof. Beginning at line 29, Appellants state that, "[u]nder the mild conditions, the sterol esters remain predominately bound and only a small amount of free sterols is formed (< 1% by weight)." Thus, while it is accurate that the "mild" reaction conditions of the first transesterification step are established through reaction temperature and/or through reaction time, it is also clear that such conditions are not the only requirement of "mild". One of ordinary skill in the art would

understand that mild transesterification includes all such reaction conditions (combinations of catalyst, time, temperature, pressure, etc.) wherein a large majority of the sterol esters present remain bound as esters and are not transesterified to form free sterols. Accordingly, in direct contrast to the Examiner's statement, "mild" conditions are not inclusive of "any reaction temperature and/or time that would permit said transesterification process to run."

*Examiner's Statement:*

> "Applicant also argues that the prior art teaches identical conditions for both transesterification steps. The examiner notes that based on the present specification, the reaction conditions of the claimed first and second transesterification steps could be identical. For example, if the claimed "mild" condition is established through the reaction temperatures and one looks at the preferred temperature range disclosed by the present specification, it is obvious that the temperature of both transesterification steps can be within the range of 115°C to 145°C as recited by the instant claims for the second transesterification step. Thus, if the "mild" condition of the first transesterification step is established through the reaction temperature and the other reaction parameters are as defined for the second transesterification step, the reaction conditions of the two transesterification steps of the claimed invention would be identical. Therefore, like the prior art, the claimed invention encompasses the use of identical reaction conditions."
>
> (*See,* the Examiner's Answer Paper No. 05182004, pp. 7-8, ¶ 11).

*Rebuttal:*

Appellants respectfully submit that even if one were to look only at the preferred reaction conditions set forth for the first and second transesterification steps, it would be clear that the transesterification reactions are not conducted under identical conditions. In the

Specification, at page 6, lines 28-31, the preferred conditions for the first transesterification reaction are set forth as a temperature of from 90 to 145°C, a pressure of from 2 to 10 bar and a reaction time of from 2 to 20 ***minutes***. In the Specification, at page 8, line 29-31, the preferred conditions for the second transesterification reaction are set forth as a temperature of from 115 to 145°C, a pressure are from 2 to 10 bar and a reaction time of from 3 to 10 ***hours***. Clearly, while the preferred temperature ranges for the first and second transesterification reactions overlap, and the preferred pressure range is the same, the preferred durations of the two reactions are completely different. The second transesterification is preferably carried out for a significantly longer period of time. Thus, in direct contrast to the Examiner's statement, even if one were to select the preferred conditions for the first and second transesterification reactions, the reaction conditions would not be identical.

## CONCLUSION

Appellants respectfully request that the Honorable Board consider the rebuttal presented above, and find for Appellants, reversing the Examiner's final rejection.

Respectfully submitted,

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(Date)

By: _____

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